

nor any accessory thereto before the Fact, shall be admitted to have the benefit of his or their Clergy, See the Stat. 12 H. 7. c. 7. 23 H. 8. c. 1. 28 H. 8. c. 1. 32 H. 8. c. 3. 1 E. 6. c. 1 2. & 4 & 5 Ph. & Ma. cap. 4.

The Forfeiture for Petty Treason, is, the King shall have his Goods, and for his Lands the King shall have *annum, diem & vasum*, and the Escheat thereof shall be to every Lord, of his own proper Fee, 25 Ed. 3. cap. 2. But for Petty Treason or Felony, if the Offender hath but an Estate-tail in his Land, he shall forfeit them but during his life, *Stamf.* 186, 187. And for Petty Treason, if the Husband be attainted, the Wife shall be barred of her Dower, *Co. L.* 37.

Pl. 186. The Justices of Peace may inquire of Petty Treason, as of Felony, and out of their Sessions, every Justice of Peace may deal with the Offenders therein, as in case of Felony, by Examination of the Offenders, by taking Information against them, and binding over the Informers to the General Gaol-delivery, and committing the Offenders to the Gaol.

Of Felonies by the Common Law. C H A P. CXLIII. V. 92.

Felony, by some this word is derived, *Quasi felleo animo factum*, L. & *Co.* 4. 124. *Idéo dicta est felonía, quia fieri debet felleo animo* (with a mind as bitter as gall.) *Minsh.* verbo felon, saith it cometh of the French word felon, *id est, atrox, crudelis: vel a velando, cum celari & occultari semper velit. Felonia est omne crimen capitale infra lesam Majestatem.*

3 El. 9. So in the Law at this day, under the word Felony, is included Petty Treason, Murther, Homicide, Chance-medly, *Se defendendo*, Burglary, Robbery, Theft, Rape, Burning of Houses, Petty Larceny, Rescous and Escape, &c. *Co. L.* 391.

“ Thus generally it seems to be taken in many Statutes, as particularly in the Statute of 3 Eliz. c. 9. Where it is said, That all persons shall be ready and apparelled at the commandment of the Sheriff, and try of the County, to pursue and arrest Felons: And they that will not so do, and thereof be attainted, shall make a grievous Fine to the King; and if default be in the Lord of a Franchise, the King shall seize his Franchise. And if any Sheriff, Coroner or any other Bailiff, for Prayer, Fear or Affinity, that his Kindred or Relation by Birth or Marriage, shall conceal consent or procure to conceal Felonies; will not do their Offices; and be thereof attainted, shall have one years Imprisonment, and pay a grievous Fine; and if he hath not whereof to pay, shall have three years Imprisonment.

Homicide most properly is, *hominis occisio ab homine facta*; for if a Man be killed by a Beast (as a Horse or a Dog) or by any other thing or mischance; although that be *hominis cadum* (of which two words, Homicide is derived) yet in such cases it is not aptly nor usually said; that Homicide is committed, but only a Man is said to be slain, *Bracton* 120.

Lamb. 235 Others do thus define or describe it, Homicide, is the felonious killing of one Man by another within the Realm, and living under the Kings protection.

But to kill a Man beyond the Seas, or to strike and give one a mortal Wound beyond the Seas or upon the Sea, whereupon he dyeth upon the Land (within this Realm) these Homicides are not punishable as Felony by the Common Law; for that they cannot be inquired of, nor tryed here; for in criminal cases, the rule is, *Ubi quis delinquit ibi punietur*. So *Co.* 2. 93. 6. 47. But in Treason it is otherwise. See hereof, *Panlo antea.*